

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONTE PICOU, on behalf of himself and
others similarly situated,

Plaintiff,

v.

TRACY LOGISTICS LLC, an entity of
unknown form; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 2:24-cv-00526-MCE-JDP

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS AND/OR STRIKE
PLAINTIFF'S SECOND AMENDED CLASS
ACTION COMPLAINT PURSUANT TO
FED. R. CIV. P. 12(b)(6) AND/OR 12(f)**

Date: June 13, 2024

Time: 10:00 a.m.

Crtrm.: 7, 14th Floor

Judge: Hon. Morrison C. England, Jr.

ORDER

2 The motion of Defendant TRACY LOGISTICS LLC (“Defendant”) to dismiss and/or strike
3 Plaintiff Donte Picou’s (“Plaintiff”) Second Amended Class Action Complaint (the “SAC”) is
4 DENIED.

5 Plaintiff filed the Second Amended Complaint without a stipulation between the parties or
6 an order of the Court. In fact, it was filed in violation of the Order issued at ECF No. 15 directing
7 that a “proposed [SAC]” be provided to opposing counsel in furtherance of the parties’ attempts to
8 resolve an existing motion to dismiss the operative First Amended Complaint (“FAC”). Plaintiff
9 instead unilaterally filed the SAC without providing a proposed version to opposing counsel and
10 without permission of the Court in violation of the Court’s prior order and the Federal Rules of
11 Civil Procedure. See Fed. R. Civ. P. 15(a). Accordingly, Plaintiff’s SAC (ECF No. 16) is
12 STRICKEN and the Clerk of Court is directed to update the docket accordingly. Defendant’s
13 Motion to Dismiss (ECF No. 29) is DENIED as moot. Because the motion to dismiss the FAC was
14 denied as moot via minute order prior to the relation of this action to the undersigned, ECF No. 18,
15 Defendant shall re-notice that original Motion before this Court not later than ten (10) days
16 following the date this Order is electronically filed.

IT IS SO ORDERED.

18 | Dated: July 1, 2024


MORRISON C. ENGLAND, JR.
SENIOR UNITED STATES DISTRICT JUDGE